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7
8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 ALICIA HOUSE, as Legal Guardian to
LILLIE JIMENEZ-HOUSE, a minor,

11 Plaintiffs,

12 v.

13 SKECHERS USA, INC., a foreign
14 corporation; DOE Employees 1-10; DOE
Individuals 11-20; and ROE Corporations 21-
15 30, inclusive,

16 Defendants.

Case No.

**(Removed from Clark County District
Court Case No: A-21-830984-C)**

**SKECHERS USA, INC.'S NOTICE OF
REMOVAL TO THE UNITED STATES
DISTRICT COURT OF NEVADA – LAS
VEGAS UNDER 28 USC § 1441
(DIVERSITY JURISDICTION)**

17
18 **TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT**
19 **OF NEVADA – LAS VEGAS:**

20 Defendant SKECHERS USA, INC. (“Skechers”) hereby removes this case to the United
21 States District Court for the District of Nevada under 28 U.S.C. § 1441, based upon diversity
22 jurisdiction as defined by 28 U.S.C. § 1332, as follows:

23 1. On March 12, 2021, Plaintiff ALICIA HOUSE, as Legal Guardian to LILLIE
24 JIMENEZ-HOUSE, a minor (“Plaintiff”), filed a lawsuit in the District Court of Clark County,
25 Nevada, titled *Alicia House, et al. v. Skechers USA, Inc., et al.*, Case No. A-21-830984-C, alleging
26 three causes of action for Negligence, Negligent Hiring/Training/Supervision/Retention, and
27 Respondeat Superior, stemming from a slip and fall at a Skecher’s Factory Outlet, located at 1925
28 West Craig Road, No. 102, North Las Vegas, NV 89032 (“Subject Property”).

1 2. Skechers was served with a copy of Plaintiff's Summons and Complaint on March
2 15, 2021. Attached as **Exhibit A** is a true and correct copy of the Summons and Complaint, along
3 with the Affidavit for Service, served upon Skechers on March 15, 2021.

4 3. On March 15, 2021, Skechers received a copy of the Complaint. As such, this
5 Notice of removal is, accordingly, timely filed. No further proceedings have been had in the state
6 court action.

7 4. This Court has original jurisdiction over this civil lawsuit under 28 U.S.C. § 1332
8 of the United States Code, and it is one which may be removed to this Court by Skechers under 28
9 U.S.C. §1441(b) because it involves citizens of different states, and the amount in controversy
10 exceeds \$75,000.00, exclusive of interest and costs.

11 5. Further, the District Court of Clark County, Nevada is located in the United States
12 District Court for the District of Nevada. Therefore, venue is proper under 28 U.S.C. § 84 because
13 this is the "district and division within which such action is pending[.]" *See* 28 U.S.C. § 1446(a).

14 6. No previous application has been made for the relief requested herein.

15 7. Under 28 U.S.C. § 1446(d), a copy of this Notice of removal is being served upon
16 counsel for Plaintiff, and a copy is being filed with the clerk of the District Court of Clark County,
17 Nevada.

18 **This Court Has Original Jurisdiction Under 28 U.S.C. §§ 1332 and 1441**

19 **(Diversity of Citizenship)**

20 8. **There is a complete diversity of citizenship.** The basic requirement in diversity
21 cases is that all plaintiffs must be of different citizenship than all defendants. Any instance of
22 common citizenship prevents federal diversity jurisdiction. For removal purposes, diversity must
23 exist both at the time the action was commenced in state court and at the time of removal. Strotek
24 Corporation v. Air Transport Association of America, 300 F.3d 1129, 1131 (9th Cir. 2002). A
25 case is removable on diversity grounds if diversity of citizenship can be ascertained from the face
26 of plaintiff's Complaint or this fact is disclosed in pleadings, motions or papers "from which it
27 may first be ascertained that the case is one which is or has become removable[.]" 28 U.S.C. §
28 1446(b)(3).

1 9. Skechers is informed and believes, and on that basis alleges that, at the time this
2 action was commenced and at the time of removal, Plaintiff was, and is, a citizen of the State of
3 Nevada.

4 10. At the time this action was commenced and at the time of removal, Skechers was,
5 and is, incorporated in Delaware, with its principal place of business in the State of California.

6 11. Thus, complete diversity exists as of the time the action was commenced in state
7 court and at the time of removal, and there are no other named defendants that can defeat
8 diversity. "Doe" defendants may be ignored for removal purposes. *See Salveson v. Western State*
9 *Bank Card Assn.*, 731 F.2d 1423 (9th Cir. 1984).

10 12. **The amount in controversy requirement is satisfied.** The amount in controversy
11 exceeds \$75,000.00, exclusive of interest and costs. Plaintiff has demanded more than \$75,000 to
12 resolve her claims.

13 13. Generally, a federal district court will first "consider whether it is 'facially
14 apparent' from the complaint that the jurisdictional amount is in controversy." *Abrego v. Dow*
15 *Chem. Co.*, 443 F.3d 676, 690 (9th Cir. 2006).) (internal citation omitted). But, a defendant may
16 remove a suit to federal court notwithstanding the failure of the plaintiffs to plead the required
17 amount. *Id.* Absent the facial showing from the complaint, the court may consider facts averred
18 in the removal petition. *Id.* If the defendant's allegation(s) regarding the amount in controversy is
19 challenged, then "both sides submit proof and the court decides, by a preponderance of the
20 evidence, whether the amount in controversy requirement has been satisfied." *Ibarra v. Manheim*
21 *Invs., Inc.*, 775 F.3d 1193, 1195 (9th Cir. 2015) (*quoting Dart Cherokee Basin Operating Co., LLC*
22 *v. Owens*, 135 S. Ct. 547, 554 (2014).) At that time, "it may be appropriate to allow discovery
23 relevant to [the] jurisdictional amount prior to remanding." *Abrego*, 443 F.3d at 691.

24 14. Plaintiff's Complaint prays for general damages for past and future harms and
25 losses in an amount in *excess* of \$15,000.00. *See* Compl., p. 8, ¶1. Although Plaintiff has not
26 plead the required amount of \$75,000.00 in the Complaint, Plaintiff has demanded more than
27 \$75,000 to resolve her claims.

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1 remaining causes of action including a state fraudulent business practices claim and a common law
2 fraud claim).

3 19. Based upon the foregoing, all requirements for diversity jurisdiction and removal
4 jurisdiction have been met. Defendant Skechers, accordingly, requests that this action now
5 pending against it in the District Court of Clark County, Nevada be removed to this Court, and that
6 this Court assume complete jurisdiction in this matter.

7 20. This removal notice is timely filed as it is filed less than 30 days after Skechers was
8 served with the complaint. Therefore, removal of this case is timely.

9 21. Defendant will promptly notify plaintiff and the District Court of Clark County,
10 Nevada of this removal as required by 28 U.S.C. § 1446(d).

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13 Dated this 2nd day of April, 2021.

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15 MORRIS, SULLIVAN & LEMKUL, LLP

16
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